



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Richard M. Broglie et al.      Art Unit : 1638  
Serial No. : 09/643,579      Examiner : Russell Kallis  
Filed : August 22, 2000  
Title : GENES FOR MUTANT MICROSOMAL DELTA-12 FATTY ACID  
DESATURASES AND RELATED ENZYMES FROM PLANTS

Commissioner for Patents  
Washington, DC 20231

PETITION REGARDING NOTICE OF OMITTED ITEM(S)  
IN A NONPROVISIONAL APPLICATION

This is responsive to the Notice of Omitted Item(s) (copy enclosed) mailed September 26, 2002. The Notice indicated that pages 37, 38, and 39 of the specification were omitted from the application and indicated that these pages corresponded to description and claims. The claims, however, start on page 56 of the application.

Applicants believe that the above application as filed on August 23, 2000, contained pages 37, 38, and 39 as our file copy of the application contains each of these pages. In addition, the transmittal letter (copy attached) that was filed with the above application indicates that the specification contains 60 pages.

Nevertheless, this application is a continuation of U.S. Patent No. 09/232,948, the disclosure of which was incorporated by reference at the time of filing the above application (see copy of transmittal letter). Applicants request that the attached copies of pages 37-39 from the parent application be entered into the specification. These pages are identical to that in the parent application. No new matter has been added.

## CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

November 25, 2002  
Date of Deposit  
Signature  
Kathryn J. Sanderson  
Typed or Printed Name of Person Signing Certificate

12/05/2002 NMOHAMM1 00000059 061050 09643579  
01 FC:1460 130.00 CH

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DEC 30 2002

OFFICE OF PETITIONS


Applicant : Richard M. Broglie, P.A.  
Serial No. : 09/643,579  
Filed : August 22, 2000  
Page : 2

Attorney's Docket No. 07148-025003 / A15-539.06

Please charge the \$130 petition fee under 37 CFR §1.17(h), and any other charges or credits, to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 11/25/02

  
Monica McCormick Graham, Ph.D.  
Reg. No. 42,600

Fish & Richardson P.C., P.A.  
60 South Sixth Street  
Suite 3300  
Minneapolis, MN 55402  
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Commissioner for Patents  
Washington, DC 20231  
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/643,579	08/22/2000	Richard Martin Broglie	07148-025003

CARGILL INCORPORATED  
P.O. BOX 5624 MS 24  
MINNEAPOLIS, MN 55440-5624

Docketed 10/1 Attorney DLB  
Action Resp Due  
Due Date \_\_\_\_\_  
Deadline 11/26/02  
Initials sas

CONFIRMATION NO. 3114

## FORMALITIES LETTER



\*OC00000008853249\*

Date Mailed: 09/26/2002

## NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Page(s) Page 37, 38, & 39 of the specification (description and claims).

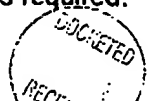
I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit must be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date must be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), re-label the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required.



A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

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*A copy of this notice MUST be returned with the reply.*



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Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

# UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

DEC 04 2000

PATENT &amp; TRADEMARK OFFICE

Attorney Docket No.

BB1534 USNA CNT1

First Named Inventor or Application Identifier

RICHARD MARTIN BROGLIE

Express Mail Label No.

EL073739282US

Express Mailing Date

AUGUST 22, 2000

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO:

Assistant Commissioner for Patents  
Box Patent Application  
Washington, DC 20231

1. ☒ Fee (Authority to charge deposit account below.)  
(Submit an original, and a duplicate for fee processing)
2. ☒ Specification [Total Pages (preferred arrangement set forth below)
- Descriptive title of the invention
  - Cross References to Related Applications (if needed)
  - Statement Regarding Fed sponsored R & D (if needed)
  - Reference to Microfiche Appendix (if filed)
  - Background of the Invention
  - Brief Summary of the Invention
  - Brief Description of the Drawings (if filed)
  - Detailed Description
  - Claim(s)
  - Abstract of the Disclosure
3. ☒ Drawing(s) (35 USC 113) [Total Sheets 

4. ☒ Oath or Declaration [Total Pages 
  - a. ☐ Newly executed (original or copy)
  - b. ☒ Copy from a prior application (37 CFR 1.63(d))  
(for continuation/divisional with Box 14 completed)
  - i. ☐ **DELETION OF INVENTORS**  
Signed Statement below at 15. deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).

5. ☒ Incorporation by Reference (useable if Box 4b is checked)  
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

6. ☐ Microfiche Computer Program (Appendix)

7. ☐ Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)

  - a. ☒ Computer Readable Copy
  - b. ☒ Paper Copy (identical to computer copy)
  - c. ☒ Statement verifying identity of above copies

## ACCOMPANYING APPLICATION PARTS

8. ☐ Power of Attorney
9. ☒ Information Disclosure Statement (IDS)/Cover Letter plus PTO-1449 ☐ Copies of IDS Citations
10. ☒ Preliminary Amendment
11. ☒ Return Receipt Postcard (MPEP 503)  
(Should be specifically itemized)
12. ☐ Certified Copy of Priority Document(s)  
(if foreign priority is claimed)
13. ☐ Other:

14. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information:

☒ Continuation    ☐ Divisional    ☐ Continuation-in-part (CIP)    of prior Application No.: 09/232,948

15. ☐ **DELETION OF INVENTOR(S) STATEMENT:** This application is being filed by less than all the inventors named in the prior application. In accordance with 37 CFR 1.63(d)(2) and 1.33(b), the Assistant Commissioner is requested to delete the name(s) of the following person or persons who are not inventors of the invention being claimed in this application:
16. ☒ Amend the specification by inserting before the first line the sentence:  
-- This is a continuation of Application No. 09/232,948 filed January 19, 1999, now pending which is a continuation of Application No. 08/728,025 filed October 9, 1996, now abandoned. --
17. ☐ Cancel in this application original claims \_\_\_\_ of the prior application before calculating the filing. (At least one original independent claim must be retained for filing purposes.)
18. ☐ Priority of foreign Application No. \_\_\_\_\_ filed on \_\_\_\_\_ in \_\_\_\_\_  
\_\_\_\_\_ is claimed under 35 U.S.C. 119.  
(country)

CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS (37 CFR 1.16(c))	36 - 20 =	16	x \$ 18 =	\$ 288.00
	INDEPENDENT CLAIMS (37 CFR 1.16(b))	3 - 3 =	0	x \$ 78 =	0
	MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$ 260 =	0
				BASIC FEE (37 CFR 1.16(a))	+ \$ 690.00
				TOTAL =	\$ 978.00

19. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 04-1928:

a. ☒ Fees required under 37 CFR 1.16.

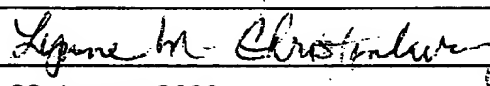
b. ☒ Fees required under 37 CFR 1.17.

20. ☐ Other:

#### 21. CORRESPONDENCE ADDRESS

NAME	Lynne M. Christenbury				
ADDRESS	E. I. du Pont de Nemours and Company				
	Legal - Patents				
	1007 Market Street				
CITY	Wilmington	STATE	Delaware	ZIP CODE	19898
COUNTRY	U.S.A.	TELEPHONE	302-992-5481	FAX	302-892-7949

#### 22. SIGNATURE OF ATTORNEY OR AGENT REQUIRED

NAME	Lynne M. Christenbury	REG. NO.:	30,971
SIGNATURE			
DATE	22 August 2000		